

# Kingston Conservation Commission Minutes

## April 1, 2008

**7:00p.m.** The chairman called the meeting to order.  
**Present:** Gary Langenbach (chairman), Marilyn Kozodoy, James Dehner, William Whitehill, William Kavol  
**Staff:** Maureen Thomas, Conservation Agent and Brandi Gordon, Secretary

Reviewed the minutes of February 19, 2008

Marilyn Kozodoy motioned to accept the minutes of February 19, 2008 as corrected.

James Dehner seconded the motion.

**7:05p.m.** **VOTE: 5-0-0**

**7:05p.m.** **William Underhill arrived.**

**7:10p.m.** **Sue Chamberlain arrived.**

Agent Updates:

- 49R Main Street Enforcement Order – most removal of soils was supposed to occur in February and no activity has occurred on site

William Kavol motioned to have the Conservation Agent notify the property owner that if no action is taken on the property before Conservation Commission meeting of April 15, 2008, action will be taken by the Commission at that meeting.

James Dehner seconded the motion.

**7:16p.m.** **VOTE: 7-0-0**

Agent Updates:

- 83 Howlands Lane – construction of a garage without a permit – requested site visit by certified mail
- 71 Country Club Way – property owner thought that he could not remove fill from the site; fill was leveled on site within the 100' buffer zone; installed erosion controls; property owner planning to pull fill 10' beyond the 100' buffer zone

James Dehner motioned to issue an enforcement order to pull the fill at the toe of the slope to the 100' buffer zone line at a 3 to 1 slope.

William Underhill seconded the motion.

**7:38p.m.** **VOTE: 7-0-0**

Agent Updates:

- 9 Smelt Pond Road – Enforcement Order and request to file an RDA for roof runoff and floats

Sue Chamberlain motioned to issue an Enforcement Order instructing the property owner to clean up the wetland and file a Request for Determination of Applicability (RDA) for the roof runoff and floats. The property owner will have thirty days to file the RDA and sixty days to clean up the wetland. William Underhill seconded the motion.

**7:45p.m.**

**VOTE: 7-0-0**

**7:45p.m.**

Continued a Public Hearing for a Request for Determination of Applicability for 399 Elm Street, Map 79, Lot2

**Present:** Brad MacKenzie, Dana Miller, Mary Rimmer

Brad MacKenzie gave history of the property and the previously issued Order of Resource Area Delineation.

Mary Rimmer stated that when the Abbreviated Notice of Resource Area Delineation was filed, the cranberry bog was actively being used. The hydrologic features were being artificially maintained. The cranberry bog was abandoned in 2006 and was hydrologically supported by pumped water. The bog was constructed in an upland. Without the bog being maintained, it will revert back to an upland. The cranberry bog is isolated from any wetland system except for piping and was constructed in a gravel pit.

Maureen Thomas stated that the Commission would normally hire an outside consultant to review subsurface soils and groundwater elevations to determine if wetland hydrology and soils exist.

The chairman asked how deep the clay liner was.

Dana Miller stated that there was 10" of sand and 6" of loam.

Sue Chamberlain motioned to hire an outside consultant and request an initial amount of \$2500.00.

William Underhill seconded the motion.

**8:07p.m.**

**VOTE: 7-0-0**

Sue Chamberlain motioned to continue the Public Hearing.

William Underhill seconded the motion.

**8:10p.m.**

**VOTE: 7-0-0**

**Continued to May 6, 2008 @ 8:45p.m.**

**8:10p.m.**

Continued a Public Hearing for an Abbreviated Notice of Resource Area Delineation for in the vicinity of Exit 8 (Smiths Lane) interchange on Route 3, Map(s) / Lot(s) 75/10, 75/11, 75/12, 66/50, 66/75, 76/4, 76/5, 76/6, 76/8, 76/9

**Present:** Kara Brewton, Lindsay Wilson

Kara Brewton stated that she had performed a site visit with the Conservation Agent. She reviewed the revised plans with the Commission.

Maureen Thomas stated that she had reviewed the revised plans and they were accurate.

William Underhill motioned to close the Public Hearing.

James Dehner seconded the motion.

**8:14p.m.**

**VOTE: 7-0-0**

Marilyn Kozodoy motioned to issue an Order of Resource Area Delineation. William Underhill seconded the motion.

8:14p.m.

**VOTE: 7-0-0**

8:15p.m.

Continued a Public Hearing for a Notice of Intent for 18 Shore Drive, Map 38, Lot 222

**Present:** Steve Kotowski, Kevin Doyle

Steve Kotowski reviewed some revisions to the plans.

The chairman stated that there was relatively clean runoff going into the proposed rain garden and wouldn't consider it mitigation.

James Dehner asked what the purpose of the stairs to the back of the property was.

Kevin Doyle stated that the purpose of the stairs was to access the beach.

The chairman stated that the concern was setting a precedent for work within 25' of the coastal bank that had been denied in the past.

Kevin Doyle stated that every house lot was different and in order to develop the site, he would need to install a straight stair case with a possible chair lift. He stated that all new development on the shore side of Shore Drive have installed asphalt driveways. He reviewed his environmentally friendly concepts for the property with the Commission.

James Dehner stated that the applicant was coming in with a green project and was proposing to offset impacts. He was concerned with how to keep the proponents of the green project perpetual.

Maureen Thomas stated that in the Wetlands Protection Act it stated that if a coastal bank supplies sediment to other beaches, seawalls are not to occur for new construction.

Marilyn Kozodoy stated that as much as she was in awe of the planning and thinking "outside of the box" for this project, she was concerned about the possible effects of a structure of this magnitude upon the integrity of the coastal bank.

Maureen Thomas asked if the applicant met the side setback for the western side of the property.

Steve Kotowski stated that the applicant had requested a variance.

Steve Kotowski stated that the applicant had mentioned another mitigation option. He asked if the Commission would be in favor of using the existing footprint and foundation. Digging would be required for new piers.

The chairman suggested that the Commission take this option under consideration.

Kevin Doyle mentioned having a financial hardship.

Marilyn Kozodoy stated that she was trying to stay focused on the law. She stated to the applicant that they had bought the property and went in with their

eyes wide open in regard to any potential financial hardship resulting from their not being able to build within the 25 foot no disturb area to the coastal bank.

Kevin Doyle stated that in the end, what was proposed would provide a much more ecological scenario.

James Dehner stated that the Commission needed to look at the mitigating factors. He stated that he was concerned about setting a precedent.

Maureen Thomas stated that she had spoken with the applicant regarding requesting a waiver. She stated that the Commission needed to determine the proper channels for a waiver request.

William Underhill stated that the way the design was made does offset some of the impacts.

Kevin Doyle discussed his history of working with Conservation Commissions and other projects. He presented a request for a waiver to the Commission.

William Underhill motioned to continue the Public Hearing.  
Marilyn Kozodoy seconded the motion.

**9:06p.m.**

**VOTE: 7-0-0**

**Continued to May 20, 2008 @ 7:30p.m.**

Discussion regarding Boy Scouts requesting to camp on Cranberry Watershed Preserve

James Dehner motioned to approve the request submitted by the Boy Scouts to camp on Cranberry Watershed Preserve.

William Whitehill seconded the motion.

**9:08p.m.**

**VOTE: 7-0-0**

Discussion regarding aluminum pipes removed from Cranberry Watershed Preserve and filing a police report

Discussion regarding the Commission supporting the purchase of a Vacuum Truck for the Highway Department

William Underhill motioned to support the purchase of a Vacuum Truck for the Highway Department.

James Dehner seconded the motion.

**9:17p.m.**

**VOTE: 7-0-0**

Discussion regarding:

- trees cut on Silver Lake Sanctuary
- 10 Raboth Road – passive solar house needs to remove 3 trees and replace with deciduous trees
- Barrows Brook

William Underhill motioned to adjourn.  
Marilyn Kozodoy seconded the motion.

**9:25p.m.**

**VOTE: 7-0-0**